

IN THE
Supreme Court of the United States
OCTOBER TERM, 1991

CHURCH OF THE LUKUMI BABALU AYE, INC.,
and ERNESTO PICHARDO,

Petitioners,

—v.—

CITY OF HIALEAH,

Respondent.

ON WRIT OF *CERTIORARI* TO THE UNITED STATES
COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

JOINT APPENDIX

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TABLE OF CONTENTS

Page

Relevant Docket Entries	1
Verified Complaint	6
Answer and Affirmative Defenses	18
Judgment of Court of Appeals	22

**Items Previously Printed in
Appendix to Petition for Writ of Certiorari
[not reprinted in this appendix]**

Opinion of the Court of Appeals	A1
Opinion of the District Court	A3
Order on Petition for Rehearing	A50
Hialeah Ord. 87-40	A52
Hialeah Ord. 87-52	A52
Hialeah Ord. 87-71	A53
Hialeah Ord. 87-72	A54
Hialeah Resolution 87-66	A55
Hialeah Resolution 87-90	A55
Fla. Stat. Ann. §828.12(1) (Supp. 1991)	A56
Fla. Stat. Ann. §828.22(2), (3) (1976)	A56
Fla. Stat. Ann. §828.23(7) (1976)	A57
Fla. Stat. Ann. §828.24 (Supp. 1991)	A57
U.S. Const. amend. I	A58
42 U.S.C. §1983 (1988)	A58

Page

Items Printed in Appendix to Petitioners' Brief¹

Hialeah Ord. 87-40	A1
Hialeah Ord. 87-52	A1
Hialeah Ord. 87-71	A2
Hialeah Ord. 87-72	A3
Hialeah Resolution 87-66	A4
Hialeah Resolution 87-90	A4
Fla. Stat. Ann. §828.12(1) (Supp. 1992)	A5
Fla. Stat. Ann. §828.22(2), (3) (1976)	A6
Fla. Stat. Ann. §828.23(7) (1976)	A6
Fla. Stat. Ann. §828.24 (Supp. 1992)	A7

¹ These items are also printed in the Appendix to the Petition for *Certiorari*, but minor errors occurred in the printing of Ord. 87-72 and Fla. Stat. Ann. §828.12. For convenience, all these related items are reprinted together in the Appendix to Petitioners' Brief.

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA**

**CHURCH OF THE LUKUMI BABALU AYE, INC.
and ERNESTO PICHARDO,**

Plaintiffs,

vs.

CITY OF HIALEAH,

Defendant.

RELEVANT DOCKET ENTRIES

[formal matters omitted in printing, including names and addresses of counsel, names of additional defendants who are no longer parties, initials of clerks who made docket entries, and summary of case on cover sheet]

DATE NR PROCEEDINGS

1987

SEPT 25 1 COMPLAINT.
...

OCT 19 4 ANSWER of City of Hialeah.
...

12 20 RESPONSE to affirmative defenses, by
ptf.
...

1988

FEB 23 22 MOTION for Final S/J, by defts' Silvio
Cardoso, Salvatore D'Angelo, Herman
Echevarria, Julio Martinez, Andres
Mejides, Paulino Nunez, Ray Robinson,
& Raul Martinez.

23 23 MEMO in supp of M/Final S/J, by

defts'.

23 24 STATEMENT of undisputed material facts, by defts'.

...

MAR 11 33 MEMO in opp to M/Final S/J by pltfs'.

21 34 REPLY memo in supp of M/Final S/J, by defts Silvio Cardoso, Salvatore D'Angelo, Herman Echevarria, Julio Martinez, Andres Mejides, Paulino Nunez, Ray Robinson.

...

APR 4 36 NOTICE of filing Official Minutes of the Hialeah Cty Clk, by pltf.

...

JUN 13 41 MEMO OPINION & ORDER (EPS 6/10/88) Granting S/J in favor of deft councilmen & Mayor (EOD 7/17/88-M-CAP).

...

SEP 14 52 MOTION for prel & Perm inj & declaratory relief, by pltfs.

14 53 MEMO in supp of M/prel inj & declaratory relief, by pltf.

...

OCT 14 60 MEMO in opp to pltfs' mot for prel inj & declaratory relief, by deft City of Hialeah.

...

NOV 10 80 MEMO in reply to deft's memo/opp to M/prel inj & declaratory relief, by pltf.

...

1989

JAN 31 112 ORDER (EPS 1/31/89) DENYING pltfs M/prel & perm inj and declaratory relief (EOD 2/3/89-CCAP).

...

APR 10 138 PRE-TRIAL Stip by pltfs & Deft City of Hialeah.

...

JUL 20 175 MINUTES on 7/20/89 of P/T Conf.

27 176 TRIAL BRIEF, by Deft.

31 177 PROPOSED FINDINGS of fact & conclusions Pltfs.

...

AUG 2 182 NOTICE of legal auth relied upon by Pltfs.

...

8 188 MEMO as to applic of first amendment's free Exercise & establishment clause, by Pltfs.

8 189 PROFFER of trl evidence, by Pltfs.

...

AUG 25 194 SUPPLEMENTAL MEMO on secular purposes of ordinance, by Deft.

...

OCT 05 204 FINAL JUDGMENT (EPS 10/5/89) FAVORING Deft agst Pltfs. Pltfs go henceforth with day. Each pty bear own costs & Attys fees. (EOD 10/6/89ccapM).

...

17 206 MOTION for new trl or amend findings & memo by Pltfs.

20 207 REPLY memo by Pltfs.

26 208 MOTION for new trl or amend findings of facts & Memo, by Pltfs.

27 209 MEMO in opp to M/new trl or amend findings & conclusions, by Deft City of Hialeah.

...

1990

JAN 25 213 TRANSCRIPT of Proceedings before Judge Spellman dated 7/31/89. Pgs 2-162.

25 214 TRANSCRIPT of Proceedings before Judge Spellman dated 8/2/89. Pgs 164-

342.

25 215 TRANSCRIPT of Proceedings before Judge Spellman dated 8/3/89. Pgs 344-523.

25 216 TRANSCRIPT of Proceedings before Judge Spellman dated 8/7/89. Pgs 525-711.

25 217 TRANSCRIPT of Proceedings before Judge Spellman dated 8/8/89. Pgs 713-922.

25 218 TRANSCRIPT of Proceedings before Judge Spellman dated 8/9/89. Pgs 924-1024.

25 219 TRANSCRIPT of Proceedings before Judge Spellman dated 8/11/89. Pgs 1026-1219.

25 220 TRANSCRIPT of Proceedings before Judge Spellman dated 8/14/89. Pgs 1221-1383.

25 221 TRANSCRIPT of Proceedings before Judge Spellman dated 8/15/89. Pgs 1385-1492.

24 222 ORDER (EPS-1/23/90) DENYING Pltfs' M/New Trl or to Amend Findings of Fact & Concls of Law (EOD-1/26/90-CCAP),

FEB 16 223 NOTICE OF APPEAL from F/J entered 10/05/89 and Order entered 01/24/90. Copies to USCA & Attys of Record. (FEE PAID #100745)

• • •

APR 13 --- RECORD ON APPEAL transmitted to USCA consisting of 7 vols of pldgs & 9 vols of transc. (USCA #90-5176).

• • •

MAY 2 226 TRANSCRIPT of proceedings on 8/28/89 pgs 1-124.

• • •

JUN 13 --- 1ST SUPPLEMENTAL ROA transm to USCA 1 accordian folder of exhs. 90-5176

26 --- ROA transmitted to USCA consisting of 1 vol exhs, (90-5176).

1991

SEP 4 228 MANDATE (USCA-8/30/91) AFFIRMING jdmt of Dist Court w/opinion (USCA #90-5176).

• • •

19 --- ROA received (vols. 1 thru 16); exhibits (1 envelope). (USCA #90-5176).

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA**

[case caption omitted in printing]

VERIFIED COMPLAINT

PRELIMINARY STATEMENT

1. This is a lawsuit brought by the Plaintiffs to enjoin, declare unconstitutional, and recover damages for deprivations of their First, Fourth, Fourteenth Amendment, and privacy rights by the City of Hialeah, its council, mayor and other officials. Defendants, their agents and employees have, under the color of state law, maliciously subjected Plaintiffs to illegal and unconstitutional harassment, threats, and discrimination, and have wilfully misused their official authority to interfere with the Plaintiffs' constitutionally protected right to establish and freely exercise their religion.

JURISDICTION

2. This action arises under the constitution and laws of the United States of America, particularly the First, Fourth and Fourteenth Amendments to the United States Constitution.

3. This Court has jurisdiction pursuant to 28 U.S.C. Section 1331, which provides for original jurisdiction of all civil actions arising under the Constitution and laws of the United States.

4. This Court also has jurisdiction under 28 U.S.C. Section 1343, which provides for jurisdiction of actions brought pursuant to 42 U.S.C. Section 1983 to redress the deprivation under the color of State law of any rights, privileges or immunities guaranteed by the Constitution and laws of the United States.

5. Plaintiffs' claims for declaratory and injunctive

relief and for damages are authorized by 28 U.S.C. Sections 2201 and 2202, Rule 57 of the Federal Rules of Civil Procedure, and by 42 U.S.C. Section 1983.

PARTIES

6. Plaintiff, CHURCH OF THE LUKUMI BABALU AYE, INC. (hereinafter referred to as the church), is a not-for-profit corporation, duly organized and existing under the laws of the State of Florida. A stated corporate purpose, as contained in its articles, is to: maintain, own, operate, and have a place of religious worship according to spiritual teachings and writings of Lukumi, Ganga and Carabali; to hold seances and communicate with spirits in the cosmic universe, and; to promote and study supernatural phenomena. The church's membership is comprised of approximately three hundred persons who believe in and guide their religious lives based on the principles of the "Yoba" faith.

7. Plaintiff ERNESTO PICHARDO is the President of the Church. He holds the religious rank of Italero or "High Priest" and is a practicing member of the faith; overseeing masses, social services, cultural development and acting as a specialized master of major rituals.

8. The City of Hialeah is a municipal corporation duly constituted and existing pursuant to the laws of the State of Florida.

9. Silvio Cardoso, Salvatore D'Angelo, Herman Echevarria, Julio Martinez, Andres Mejides, Paulino Nunez, and Ray Robinson are all elected public officials of the City of Hialeah, and collectively these Defendants comprise the City of Hialeah Council; which is the legislative body for said municipality.

10. Raul Martinez is the elected mayor of the City of Hialeah and pursuant to its city charter, serves as its chief executive officer.

STATEMENT OF FACTS

11. "Santeria" (which is Spanish for the worship of saints), is a "generic misnomer" for traditional African religions which originated in the southwestern portion of the African continent now known as Nigeria. During the slave trade, these forms of worship survived in the new world through a process of syncretism with catholicism. The Yoba (Lukumi) religion is a pre-Christian faith which believes in one omnipotent known as "Olodumare the Creator" and his children, the "Orishas." Its central dogma "Ifa," is a written divinatory system consisting of religious mandates which govern the ethics, morals and theological principles by which the believers live and worship. Herbal medicine, prayer, protective charms, chants, magic, marriage and death rites, as well as food and animal offerings are all part of this religion. Said dogma also regulates all rituals and provides for a belief system which includes ordination into the priesthood for both men and women, dietary laws, religious taboos, etc. Priest hierarchical order is based on seniority of initiation and specialization through apprenticeship. The ritual offerings of specific animals, mostly chickens, constitutes an integral part of this religion. Animal offerings are made in association with the initiation of priests, for faith healing, and as a means of alternative therapy or crisis intervention. In all cases except for healing purposes, the animals are cleaned, cooked, and consumed by members of the church in a ritual feast. In cases of faith healing, the animals are not consumed because of the belief that the malady that has been exorcised from the individual now inhabits the animal. This religion believes that any animal which is offered must be healthy. The animals are ritualistically slaughtered only by specialized priests through the use of a sharp instrument to sever the carotid arteries, thereby causing simultaneous and instantaneous death. In Dade County alone, it is estimated that 50,000 people practice Santeria, primarily in

the privacy of their homes.

12. On or about June of 1987 the Church of the Lukumi acquired land situated at 173 West 5th Street, Hialeah, Florida, for the purpose of securing a religious place of worship, establishing a theological school, an Afro-Cuban museum, counseling services, a daycare center and to generally promote and advance its religious beliefs.

13. Immediately thereafter, under color of state law, the Defendants individually and together with their agents, assistants, employees and other persons acting in concert with them, and at their direction and control, interfered and chilled Plaintiffs and members of their class in the exercise of their religious rights under the United States Constitution. They did so through a concerted process of discouragement, harassment, threats, punishment, detention, and threats of prosecution, as witnessed by the following acts:

A) Causing a city council meeting to be held as to the issue of the propriety of granting the Church of the Lukumi a city-required "permit" to use the land as a place of worship (June 9, 1987).

B) Intrusion into religious services being conducted outside the church building, on its grounds, through the establishment of a highly visible police perimeter at the boundaries and entrance to the church property.

C) Refusing or failing to provide the church and its members with city sanitation services.

D) On or about May 21, 1987, intervening and causing Florida Power and Light to selectively discontinue providing electrical service to the church building.

E) Publicly inciting persons to appear at a public hearing of the city council for the purpose of present-

ing protests of the Santeria religion (June 9, 1987).

F) Causing members of the church and public who entered/exited the church to be detained by police without any reasonable basis of suspicion other than the act of ingress or egress to or from the church.

G) Unanimous adoption (on June 9, 1987) of Florida Statutes Chapter 828 (Cruelty to Animals) as an emergency city ordinance; notwithstanding the actual knowledge that said statute contains a religious exception therein; and against the advise from its attorney that the city did not have the authority to interpret the cruelty to animals statute to mean that sacrifice of animals is a violation thereof.

H) On the same date, unanimously passing a resolution specifically directed to the Church of the Lukumi, Ernesto Pichardo, members and believers (from the City of Hialeah) "... reiterating its commitment to a prohibition against any and all acts of any and all religious groups which are inconsistent with public morals, peace or safety."

I) Proposal and passage of yet another resolution aimed specifically at Plaintiffs and believers, declaring it the policy of the Defendants to oppose the ritual sacrifices of animals and declaring that any individual or organization that seeks to practice animal sacrifice "in violation of state and local laws" will be prosecuted (August 11, 1987).

J) Various and other acts intended to discriminate against Plaintiffs on the basis of their religious beliefs.

14. On September 8, 1987 the Defendant city council members, individually and collectively, under the color of state law, and with the intent to violate the Plaintiffs' constitutional rights, did conspire and propose three criminal ordinances as follows:

A. The first, prohibiting the possession of animals with the intent of committing religious slaughter or sacrifice (Exhibit 1).

B. The second, prohibiting the religious offering of animals and authorizing any Florida corporation "... for the prevention of cruelty to children or animals" to register agents with the city to be empowered to investigate and prosecute violations of the ordinance. Also, Section 7 of this proposed law repeals all ordinances in conflict therewith (Exhibit 2).

C. Thirdly, outlawing "animal slaughter" within Hialeah, except on premises "properly zoned" as a slaughterhouse and meeting city requirements for slaughter houses. This proposed ordinance also authorizes the appointment of agents-vigilantes not only with respect to the enforcement of the ordinance, but also regarding "... any other laws of the City of Hialeah, Florida for the purpose of protecting children or animals and preventing any act prohibited hereinunder." (Exhibit 3).

15. On September 15, 1987 the first ordinance became law in the City of Hialeah. The last two ordinances are currently undergoing revisions, the particulars of which are unknown to Plaintiffs, and are scheduled to be passed at the next council meeting scheduled for Tuesday, October 13, 1987.

16. The Church of the Lukumi Babalu Aye and Ernesto Pichardo have been injured because the Defendants have taken actions which unconstitutionally infringe on the Plaintiffs' rights to free exercise of religion and which discriminate against the Plaintiffs because of their religious beliefs and practices.

THE FIRST AMENDMENT COUNT I

The Plaintiffs reallege all of the foregoing allega-

tions as if fully set forth herein and would further state:

17. The policies, actions, and practices of the Defendants, their agents, and employees described above in this cause of action were willfully and maliciously designed to and had the effect of chilling, deterring, preventing, and inhibiting the Plaintiffs from the free exercise of their rights of religion, association, and assembly under the First Amendment of the Constitution of the United States and directly interfered with the exercise of those rights.

PRIVACY COUNT II

The Plaintiffs reallege all of the foregoing allegations as if fully set forth herein and would further state:

18. The policies, actions, and practices of the Defendants, their agents, and employees described above in this cause of action violated Plaintiffs' right to privacy under the Constitution of the United States.

THE FOURTEENTH AMENDMENT COUNT III

The Plaintiffs reallege all of the foregoing allegations as if fully set forth herein and would further state:

19. The policies, actions, and practices of the Defendants, their agents, and employees described above in this cause of action violated Plaintiffs' rights under the first, fourth, and fourteenth amendments to the Constitution of the United States.

EQUITABLE RELIEF COUNT IV

The Plaintiffs reallege all of the foregoing allegations as if fully set forth herein and would further state:

20. Plaintiffs have suffered, are suffering, and will

continue to suffer severe and irreparable injury by virtue of Defendants' acts, policies, and practices as set forth herein. Their fundamental constitutional rights have been violated and will continue to be violated. The acts of Defendants are chilling and deterring to the free exercise of rights of religion, association, assembly, privacy, and movement. Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their constitutional rights, and this suit for injunction, declaratory judgment, and damages is their only means of securing complete and adequate relief. No other remedy would offer Plaintiffs substantial and complete protection from continuation of Defendants' unlawful and unconstitutional acts, policies, and practices.

21. Accordingly, unless and until the relief demanded in this complaint is granted, Plaintiffs have reason to believe that their rights to freedom of religion, freedom of association, freedom of inquiry and thought, due process of law, equal protection of the laws, and the right to privacy, as well as the other rights aforementioned, will continue to be infringed, threatened, impeded, and otherwise interfered with. The relief demanded is essential, not only to prevent the interference with Plaintiffs' constitutional rights on the part of the named Defendants, but to prevent interference by other state, county, or local officials, known and unknown. Therefore, unless the relief demanded is granted, Plaintiffs will suffer the most serious, immediate, and irreparable injury in that they will continue to be chilled, deterred, intimidated, hindered, and prevented from exercising fully and vigorously their most fundamental constitutional rights.

22. The enforcement of one or all of these ordinances will have the effect of punishing the Plaintiffs for the exercise of their rights, privileges, and immunities guaranteed to them by the Constitution and laws of the United States; will deter and prevent the Plaintiffs from the future exercise of these rights, privileges, and immu-

nities; and will continue to encourage Defendants and other state or local officials acting under color of law to engage in further acts of intimidation, harassment, threats, or other actions meant to deter and prevent the Plaintiffs from the exercise of their rights, privileges, and immunities.

23. Unless restrained by order of this court, Defendants or some of them or their agents or assistants will imminently prosecute Plaintiffs or cause them to be prosecuted under the aforementioned ordinance(s).

24. Permitting the Defendants to carry out their threatened actions will have destructive, harassing, intimidating and chilling effects on the federal rights described above.

25. Plaintiffs have no adequate remedy at law. The ominous deterrence to, and the prevention of the free exercise of their rights cannot be removed by successful defenses to criminal prosecutions.

26. The same chilling effect on the first amendment rights will result from the threats of action by the Defendants against the Plaintiffs even if these threats of prosecution ultimately fail. Every day that the threats are made, irreparable injury is being done to the Plaintiffs because they are deterred by fear of loss of liberty and property for practicing their religious beliefs fully, vigorously, and peacefully, pursuant to the Constitution and laws of the United States.

27. No injury will be sustained by the public or Defendants by the issuance of injunctive relief.

DAMAGES COUNT V

The Plaintiffs reallege all of the foregoing allegations as if fully set forth herein and would further state:

28. Plaintiffs have suffered, are suffering, and will

continue to suffer severe and irreparable injury and damage by virtue of Defendants' acts, policies, and practices as set forth herein. Their fundamental constitutional rights have been violated and will continue to be violated, and the acts of Defendants are chilling and deterring to the Plaintiffs' free exercise of their rights of religion, association, assembly, privacy, and movement, and effectively deprive them of their right to petition their city government for the redress of grievances.

PRAYER FOR RELIEF COUNT VI

WHEREFORE, Plaintiffs pray that this Honorable Court:

A) Assume jurisdiction of this cause.

B) Upon notice, issue a temporary restraining order; issue preliminary and permanent injunctions restraining and enjoining the Defendants and each of them, from further denying Plaintiffs the right to freely exercise their religious faith.

C) Enter a Judgment and Decree declaring that the policies, practices, and acts of Defendants denies the Plaintiffs their right to freely exercise their religion, as guaranteed by the first amendment of the Constitution of the United States as applied to the state by the fourteenth amendment; and that such policies, practice, and acts are, therefore, unconstitutional, illegal and void.

D) Issue a declaratory judgment, declaring that the actions of the Plaintiffs herein are protected by the Constitution of the United States.

E) Issue a declaratory judgment, declaring that the subject ordinance(s) are null and void on their face or as applied to the conduct of the Plaintiffs herein, as violative of the Constitution and laws of the United States.

F) Issue a declaratory judgment, declaring that

Florida Statutes, Chapter 828 is null and void as applied to the conduct of the Plaintiffs herein, as violative of the Constitution and laws of the United States, and as violative of the state religious exemption and pre-emption provision contained therein.

G) Order, adjudge, and decree that the Defendants, their agents, servants, employees, attorneys, and all persons in active concert and participation with them, be perpetually enjoined from any and all illegal acts of harassment directed toward the Plaintiffs by the Defendants.

H) Award damages unto the Plaintiffs together with their costs, reasonable attorneys fees and such further and other additional relief as may appear to the Court to be equitable and just.

JORGE A. DUARTE, ESQUIRE
Attorney for Plaintiffs

Co-Counsel:

Mitchell A. Horwich, Esquire
Horwich & Zager, P.A.

Maurice Rosen, Esquire

Stanley Pred, Esquire

Arthur B. Calvin, Esquire

[signature, addresses, and phone
numbers of counsel omitted in printing]

[case caption omitted in printing]

AFFIDAVIT

COMES NOW Ernesto Pichardo, who after being

duly sworn deposes and says:

1) I have read the allegations contained in the above styled complaint, and each and every allegation contained therein is true and correct to the best of my knowledge and belief.

ERNESTO PICHARDO

[jurat and signatures omitted in printing]

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA**

[case caption omitted in printing]

ANSWER AND AFFIRMATIVE DEFENSES

Defendant, CITY OF HIALEAH, answers the Complaint and alleges:

1. Denies the allegations of paragraph 1 of the Complaint, except admits that the subject lawsuit was commenced by the Plaintiffs.
2. Denies the allegations of paragraph 2 of the Complaint as alleging a legal conclusion.
3. Admits the Court has jurisdiction under §1331 as alleged in paragraph 3 of the Complaint.
4. Admits the Court has jurisdiction over actions brought under 42 U.S.C. §1983, and denies all other allegations of that paragraph.
5. Denies the allegations of paragraph 5 of the Complaint as alleging a legal conclusion.
6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint.
7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint.
8. Admits the allegations of paragraph 8 of the Complaint.
9. Admits the allegations of paragraph 9 of the Complaint.
10. Admits the allegations of paragraph 10 of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 of the Complaint.

13. Denies the allegations of paragraph 13 of the Complaint, except admits adoption of Florida Statutes chapter 828 (cruelty to animals) as a city ordinance and the passage of certain resolutions on June 9, 1987 and August 11, 1987, and reference is made to those resolutions for the specific contents thereof.

14. Denies the allegations of paragraph 14 of the Complaint, except admits that on September 8, 1987 the city council members did propose three criminal ordinances, copies of which are attached to the Complaint and reference is made to those proposed ordinances for the specific contents thereof.

15. Admits the allegations of the first sentence of paragraph 15 of the Complaint, and denies the allegations of the second sentence of paragraph 15 of the Complaint, as pled.

16. Denies the allegations of paragraph 16 of the Complaint.

17. Denies the allegations of paragraph 17 of the Complaint.

18. Denies the allegations of paragraph 18 of the Complaint.

19. Denies the allegations of paragraph 19 of the Complaint.

20. Denies the allegations of paragraph 20 of the Complaint.

21. Denies the allegations of paragraph 21 of the

Complaint.

22. Denies the allegations of paragraph 22 of the Complaint.

23. Denies the allegations of paragraph 23 of the Complaint.

24. Denies the allegations of paragraph 24 of the Complaint.

25. Denies the allegations of paragraph 25 of the Complaint.

26. Denies the allegations of paragraph 26 of the Complaint.

27. Denies the allegations of paragraph 27 of the Complaint.

28. Denies the allegations of paragraph 28 of the Complaint.

FIRST DEFENSE

29. The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

30. The claims alleged in the Complaint are barred by laches;

THIRD DEFENSE

31. The claims alleged in the Complaint are barred by the Doctrine of Unclean Hands.

FOURTH DEFENSE

32. The claims alleged in the Complaint are barred by establishment clause of the First Amendment and Fourteenth Amendment to the United States Constitution.

FIFTH DEFENSE

33. The claims alleged in the Complaint are not ripe for adjudication.

Respectfully submitted,
GREENBERG, TRAURIG,
ASKEW, HOFFMAN, LIPOFF,
ROSEN & QUENTAL, P.A.

BY: RICHARD G. GARRETT

STUART H. SINGER

[address, phone number, and signatures
of attorneys omitted in printing]

[certificate of service omitted in printing]

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 90-5176

D.C. Docket No. 87-1795-CIV-EPS

CHURCH OF THE LUKUMI BABALU AYE, INC., a
non-profit corporation and ERNESTO PICHARDO,

Plaintiffs-Appellants,

versus

CITY OF HIALEAH,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

Before FAY and COX, Circuit Judges and
HENDERSON, Circuit Judge.

JUDGMENT

This cause came to be heard on the transcript of the
record from the United States District Court for the
Southern District of Florida, and was argued by counsel;

ON CONSIDERATION WHEREOF, it is now
hereby ordered and adjudged by this Court that the judg-
ment of the said District Court in this cause be and the
same is hereby AFFIRMED;

IT IS FURTHER ORDERED THAT plaintiffs-
appellants pay to defendant-appellee, the costs on appeal
to be taxed by the Clerk of this Court.

Entered: June 11, 1991

For the Court: Miguel J. Cortez, Clerk

ISSUED AS MANDATE: AUG 30 1991